

JUDGE ENGELMAYER

12 CIV 3464

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JACQUELINE ORTIZ

Plaintiff

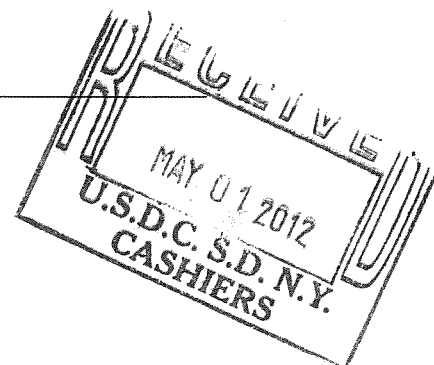
v.

PALISADES COLLECTION, L.L.C ,  
PRESSLER & PRESSLER, L.L.P,

Defendants.

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§

Case No.:



**PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND**

Plaintiff, JACQUELINE ORTIZ ("ORTIZ"), brings suit against Defendants for their violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, (the "FDCPA"), and in support would show as follows.

**A. JURISDICTION AND VENUE**

1. The Court has federal question jurisdiction over the lawsuit because the action arises under the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq.*, (FDCPA). Jurisdiction of the Court arises under 28 U.S.C. § 1331 in that this dispute involves predominant issues of federal law, the FDCPA. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.
2. Venue in this District is proper because all or a substantial part of the events or omissions giving rise to the claims occurred in Bronx County, New York.
3. Plaintiff is an individual who resides in Bronx County, New York.
4. Defendant PALISADES COLLECTION, L.L.C is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 210 Sylvan Avenue #1, Englewood, New Jersey 07632-2510. Said Defendant engages in business in

New York, and this suit arose out of said Defendant's business in New York. PALISADES COLLECTION, L.L.C, may be served at its principal place of business at 210 Sylvan Avenue #1, Englewood, New Jersey 07632-2510.

5. Defendant PRESSLER & PRESSLER, L.L.P, is a limited liability partnership organized and existing under the laws of the State of New Jersey, with its principal place of business at 7 Entin Road #7, Parsippany, New Jersey 07054-5020. Said Defendant engages in business in New York, and this suit arose out of said Defendant's business in New York. It may be served at its principal place of business at 7 Entin Road #7, Parsippany, New Jersey 07054-5020.

## **B. STATEMENT OF FACTS**

6. Defendant PALISADES COLLECTION L.L.C. ("PALISADES") is a debt collector. PALISADES is a debt collector because it purchases charged off consumer accounts and attempts to collect on them by sending thousands of collection letters and filing thousands of collections lawsuits, directly or through others.

7. Defendant PRESSLER & PRESSLER L.L.P. ("PRESSLER & PRESSLER") is a debt collection law firm. PRESSLER & PRESSLER is a debt collector because it sends thousands of collection letters and files thousands of collection lawsuits as attorneys for putative creditors and debt buyers seeking to collect alleged consumer debts.

8. On or about May 6, 2011, ORTIZ received a letter from PRESSLER & PRESSLER. The letter dated May 2, 2011, stated that PRESSLER & PRESSLER was the representative for PALISADES in a state court collections lawsuit in Bronx County Civil Court, Palisades Collection L.L.C. vs Jacqueline Ortiz, No. CV-059211-05/BX ("the collections lawsuit"). The

letter claimed that: 1) PALISADES had title to a charged-off debt (“the debt”) belonging to ORTIZ on which AT&T Wireless was the original creditor; 2) that PALISADES had obtained a judgment for the debt in the collections lawsuit on August 10, 2006; 3) that an “amount of \$4,756.80” was due; 4) that the judgment was “valid for twenty (20) years;” and, 5) that interest was accruing at New York’s statutory rate of “nine percent (9%).” See Exhibit A.

9. ORTIZ was never a customer of AT&T Wireless.

10. PALISADES and PRESSLER & PRESSLER have a policy and procedure of continuing to collect AT&T Wireless accounts that they knew, or had reason to know, had systematic defects, including statute of limitations bars, un-owed debts, accounts unopened and mistaken identity.

11. The May 2, 2011 letter was the first time that ORTIZ knew or could reasonably have known that: 1) she might be an AT&T consumer; 2) that she might owe a debt to PALISADES or AT&T; 3) that a lawsuit had been brought against her to collect on such a debt; 4) that a judgment had been entered against her for such a debt. ORTIZ never received any proper debt collection letter or calls indicating that there was a lawsuit or judgment against her.

12. On or about November 8, 2005, PRESSLER & PRESSLER filed a false affidavit of service alleging that its process server served ORTIZ by delivering a copy of the summons and verified complaint to Alvilyn Negron, ORTIZ’s mother, and then mailing the same the following day. ORTIZ did not receive either copy of the summons and verified complaint. See Exhibit B.

13. On or about May 6, 2011, and on a few other occasions in and around this date, ORTIZ contacted by telephone PALISADES through its lawyer PRESSLER & PRESSLER. In her phone conversations with PRESSLER & PRESSLER, ORTIZ informed PALISADES that: 1)

she was not an AT&T Wireless customer; 2) she did not owe money to either PALISADES or AT&T; and, 3) that she was not served with notice regarding the collections lawsuit in which judgment was entered against her.

14. ORTIZ felt that her call to PALISADES provoked a series of collections attempts.

15. After her call to PALISADES, on or about May 6, 2011, ORTIZ began to receive numerous communications from PRESSLER & PRESSLER regarding the collections lawsuit and her alleged debt. The communications came in the form of phone calls and letters. The communications were attempts to collect on the judgment, despite ORTIZ's repeated affirmation that she did not owe this debt.

16. In the phone conversations with PALISADES through its counsel PRESSLER & PRESSLER, ORTIZ continued to inform PALISADES that she did not owe them any money. Nevertheless, PALISADES continued to press ORTIZ for money. ORTIZ felt like she was being harassed. Although she was adamant that she did not, in fact, owe Defendants anything, ORTIZ considered settling for a lesser sum solely to avoid potential and further harm to her credit score. At this point, ORTIZ appreciating PRESSLER & PRESSLER's aggressive and dishonest debt collection tactics became fearful of what Defendants might do in an effort to prove this debt that she did not owe.

17. The communications with PALISADES left Ortiz feeling angry. She felt that it was placing her in a position where she had to pay money that she did not owe. Because she was sure that she did not owe PALISADES any money, on or about June 9, 2011, ORTIZ filed an Order to Show Cause to vacate the judgment in the collections lawsuit. See Exhibit C.

18. On or about June 15, 2011, PRESSLER & PRESSLER filed an opposition to Ortiz's

motion to vacate the judgment. See Exhibit D.

19. The opposition contained as exhibits documents that were allegedly sent to ORTIZ over a five-year period, including Judgment Notices and a FDCPA Notice. See Exhibit D. These documents were never sent to nor received by Ortiz and the first time she became aware of the lawsuit and judgment against her was after she received the May 2, 2011 letter from PRESSLER & PRESSLER. On information and belief, PRESSLER & PRESSLER attached these letter to the response knowing that they were never sent to ORTIZ with specific intent to of attempting to retain the default judgment they obtained via sewer service.

20. On or about June 7, 2011, ORTIZ was served with a garnishment writ pursuant to the debt from the collections lawsuit, which she did not owe, and which she had contested with a motion to vacate judgment. See Exhibit F.

21. On June 21, 2011, the Honorable Fernando Tapia granted ORTIZ's motion to vacate and restored the case to the trial calendar. See Exhibit E. The court noted in its order that although the case was restored to the trial calendar ORTIZ's jurisdictional defense remained. Id.

22. On or about July 27, 2011, PRESSLER & PRESSLER sent ORTIZ a Stipulation of Discontinuing Action with Mutual Releases. The stipulation proposed that PALISADES would discontinue its action with prejudice if ORTIZ agreed to discontinue with prejudice any counterclaims or claims she may have against Defendants. ORTIZ did not raise any counterclaims in the collections lawsuit and did not sign the stipulation. See Exhibit G.

23. At the first pre-trial conference, on or about September 13, 2011, the court ordered PALISADES to provide discovery material to ORTIZ including: a) "a copy of the signed contract giving rise to the alleged debt"; b) "all billing statements and transaction history for the

subject account”; and c) “a complete chain of custody including written proof of assignment for the subject account.” See Exhibit H.

24. In a shockingly abusive conduct, on September 13, 2011, PALISADES, through its attorney PRESSLER & PRESSLER, threatened ORTIZ that if ORTIZ did not sign a release that was mutual that they would never agree to a trial forcing the case to continue without resolution. Defendants told ORTIZ would have to continue missing work to come to court, which would not affect PRESSLER & PRESSLER as it is in court every day dealing with other cases. When Defendants told this to ORTIZ they knew that that they had no evidence to prove that ORTIZ owed the debt. Indeed, given the repeated denials of ORTIZ and for other reasons, Defendants knew or had reason to know that ORTIZ in fact did not owe the putative debt. These statemenets obviously caused ORTIZ distress and anger.

25. Subsequently, on or about September 21, 2011, PRESSLER & PRESSLER filed a motion to discontinue the collections action by notice pursuant to N.Y. C.P.L.R. § 3217. The cover letter to the motion inaccurately stated that the hearing would be heard at the Kings County Civil Court in Brooklyn not in the Bronx where the case was pending. See Exhibit I. ORTIZ was confused and called PRESSLER & PRESSLER and the attorney she spoke to, Mitchell Zipkin, responded to her inquiry about the hearing location by stating that she should “ask her lawyer” without ever clarifying the inaccuracy of the information provided.

26. On October 13, 2011, Judge Lizbeth Gonzalez denied PRESSLER & PRESSLER’s motion to discontinue the action.

27. Nevertheless, a few weeks thereafter by letter dated November 1, 2011, PALISADES, through its counsel, contacted ORTIZ stating that they voluntarily discontinued the collections

lawsuit and the “Notice of Discontinuing Action” had been “filed” in the Bronx County Civil Court. Enclosed with the letter dated November 1, 2011, was a purported court-stamped (October 25, 2011 at 10:17 am) copy of a Notice of Discontinuing Action signed by PRESSLER & PRESSLER. PALISADES sent ORTIZ this notice with the specific intent that ORTIZ would not show up for the next pre-trial conference, which would allow PALISADES to default ORTIZ. See Exhibit J.

28. PRESSLER & PRESSLER plainly understood that it could not discontinue its suit by mere notice at that point in litigation according to Section 3217(a) of the New York Rules of Civil Procedure. What is more, its motion to discontinue filed a few weeks earlier was already denied by the court.

29. Moreover, the purported discontinuance is not in the court file, despite the purported stamp on the discontinuance. Therefore, on information and belief, Defendants never filed to purported discontinuance with the court but rather doctored the purported stamp on the discontinuance for the specific purpose of deceiving ORTIZ into believing that the case had been discontinued and thus that she did not have to attend the next hearing. This was done for the specific purpose of Defendants to obtain a default against ORTIZ when she did not show up at the next hearing.

30. That is exactly what happened.

31. On or about December 15, 2011, ORTIZ did not appear for her pre-trial conference date, as the letter from Defendants stated that the case had been discontinued. After the court clerk called the defaults PRESSLER & PRESSLER requested an inquest clerk marking as ORTIZ’s name was one of the names on the default calendar. It did not at that point or any point

thereafter communicate to the court that the reason ORTIZ was not in court was because PRESSLER & PRESSLER previously communicated to her that it voluntarily terminated the case. See Exhibit K.

32. After ORTIZ learned that Defendants defaulted her she immediately filed an order to show cause to vacate the inquest clerk and stay the entry of judgment on or about December 19, 2011. By motion dated December 19, 2011, ORTIZ stated that she did not owe the money, Defendants never produced any proof of the debt, and that she did not have any business relationship with PALISADES. She further averred that PRESSLER & PRESSLER sent her a “notice of discontinuing action,” and stated to her that it “filed it in court.” ORTIZ continued that she “called and they [PRESSLER & PRESSLER] said the case was dismissed.” See Exhibit L.

33. On or about January 9, 2012, ORTIZ again returned to court for the hearing on her motion to vacate the inquest clerk. At that point, the collections lawsuit was finally discontinued with prejudice. See Exhibit L.

34. Throughout the entire collections action, PALISADES put forth no evidence that ORTIZ owed the putative debt.

35. ORTIZ felt stress, anger, confusion, and concern during her efforts to clear the judgment from the collections lawsuit. She had to miss several days of work in order to appear in court. She incurred expenses, including postage and copies, seeking to prevent Defendants from obtaining the more than \$4,000 to which they erroneously said they were entitled.

**COUNT # 1: Violations of the federal Fair Debt Collection Practices Act.**

36. Plaintiff repeats and realleges each and every allegation set forth above as if reasserted



and realleged herein.

37. The purpose of the FDCPA is “to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692(e). See also Hamilton v. United Healthcare of La., Inc., 310 F.3d 385, 392 (5th Cir. 2002) (“Congress, through the FDCPA, has legislatively expressed a strong public policy disfavoring dishonest, abusive, and unfair consumer debt collection practices, and clearly intended the FDCPA to have a broad remedial scope”).

38. Congress designed the FDCPA to be enforced primarily through private parties – such as Plaintiff – acting as “private attorneys general.” See S. Rep. No. 382, 95th Con., 1st Sess. 5 (Aug. 2, 1977), (“The committee views this legislation as primarily self-enforcing; consumers who have been subject to debt collection abuses will be enforcing compliance”); and Jacobson v. Healthcare Fin. Servs., 516 F.3d 85, 91 (2d Cir. 2008) (“In this way, the FDCPA enlists the efforts of sophisticated consumers like [plaintiff] as ‘private attorneys general’ to aid their less sophisticated counterparts, who are unlikely themselves to bring suit under the Act, but who are assumed by the Act to benefit from the deterrent effect of civil actions brought by others.”)

39. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3) because she was alleged to owe a debt.

40. The obligation alleged by Defendants to be owed by Plaintiff is a “debt” as defined by 15 U.S.C. § 1692a(5) because the putative debt was alleged to be incurred primarily for family, personal or household purposes.

41. Defendants are each a “debt collector” as defined in 15 U.S.C. § 1692a(6).

42. PRESSLER & PRESSLER is a debt collector because it sends thousands of collection letters and files thousands of collection lawsuits as attorneys for creditors and debt buyers seeking to collect alleged consumer debts. Therefore, PRESSLER & PRESSLER regularly attempts to collect debts alleged to be owed to another, and that is its primary purpose.

43. PALISADES is a debt collector because it purchases defaulted consumer accounts and attempts to collect on them by sending thousands of collection letters and filing thousands of collections lawsuits, directly and through others. Therefore, PALISADES regularly attempts to collect post-default consumer debts, directly or indirectly, and that is its primary purpose.

44. The actions of Defendants enumerated in the above statement of facts constitute an attempt to collect a debt or were taken in connection with an attempt to collect a debt within the meaning of the FDCPA.

45. Defendants violated the following sections of the FDCPA: 15 U.S.C. §§ 1692d, 1692e, and 1692f. By way of example and not limitation Defendants violated the FDCPA by taking the following actions in an attempt to collect a debt or in connection with an attempt to collect a debt: engaging in conduct the natural consequence of which is to harass, oppress or abuse any person; using false, deceptive or misleading representations or means; misrepresenting the character, amount or legal status of the debt; misrepresenting the services rendered or compensation which may be received; threatening to take and actually taking an action prohibited by law; communicating or threatening to communicate to any person false credit information; using any false representations or deceptive means; using unfair or unconscionable means; and collecting any amount that is not expressly permitted by law or contract.

46. A prevailing Plaintiff in an FDCPA action is entitled to actual damages, additional statutory damages of up to \$1,000.00, and mandatory attorney's fees and costs, and these are so sought.

**C. JURY DEMAND.**

47. Plaintiff demands a trial by jury.

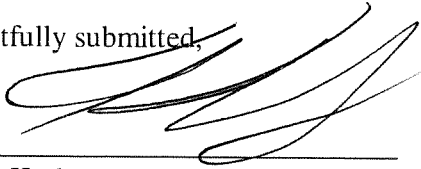
**D. PRAYER**

48. For these reasons, Plaintiff asks for judgment against Defendants for the following:

- i. The above referenced relief requested;
- ii. Statutory damages of up to \$1,000.00 pursuant to 15 U.S.C. § 1692k;
- iii. Actual damages within the jurisdictional limits of the court;
- iv. Attorney fees and costs;
- v. Prejudgment and post-judgment interest as allowed by law;
- vi. A declaration that Defendants violated the FDCPA as alleged in the complaint;
- vii. General relief;
- viii. All other relief, in law and in equity, both special and general, to which Plaintiff may be justly entitled.

Dated: New York, NY  
May 1, 2012

Respectfully submitted,

By:   
Ahmad Keshavarz  
ATTORNEY FOR PLAINTIFF  
The Law Office of Ahmad Keshavarz

16 Court St., 26th Floor  
Brooklyn, NY 11241-1026  
Phone: (718) 522-7900  
Fax: (877) 496-7809  
Email: [ahmad@NewYorkConsumerAttorney.com](mailto:ahmad@NewYorkConsumerAttorney.com)

# Exhibit A

HARRICH H. PRESSLER (1916-2002)  
SHERIDAN H. PRESSLER

GERARD J. FELT  
STEVEN D. MCCABE  
LAURENCE J. MCDONNETT, JR.

MITCHELL L. WILLIAMSON  
THOMAS M. PROGAN  
RALPH GULKO  
JOHN L. D'AMADIO  
CHRISTOPHER P. CROCHETTI

**PRESSLER AND PRESSLER, L.L.P.**

COUNSELLORS AT LAW  
7 ENTIN ROAD  
PARLIPPANY, NJ 07054-5020  
OFF: (973) 783-5100  
FAX: (973) 783-5353

NY Office  
305 Broadway  
9th Floor  
New York, NY 10007  
Off: (516) 222-7929  
FAX: (718) 753-5353  
Reply to [X] NJ Office [ ] NY Office

DALE L. GELBER  
CRAIG E. STILLER  
STEVEN A. LANG  
CAROL B. SULLIVAN  
GINA M. LO HUR

DARYL J. KIPNIS  
GABRIEL H. TANAKA  
MITCHELL H. KIPKIN  
MICHAEL J. PETERS  
RITA E. AYOUN

\* NY State Licensees Only

OFFICE HOURS:  
Monday-Thursday: 9am-5pm  
Friday: 9am-7pm  
Saturday: 9am-2pm

05/02/11

TO: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

RE: PALISADES COLLECTION, L.L.C. -vs- JACQUELINE ORTIZ  
CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX  
Index #: 59211/05  
P&P FILE NO 028107  
Original Creditor AT&T WIRELESS

Dear JACQUELINE ORTIZ :

Please be advised that the above creditor obtained a judgment in the above referenced matter on August 10, 2006 , upon which the amount of \$4,756.80 is due.

The judgment is valid for twenty (20) years. During that period, interest will accrue on the judgment at the statutory rate which is currently nine percent (9%).

Please call me toll free at 1-888-312-8600 Ext 5348 or anyone in my department at 5112 to discuss this matter. We will proceed to enforce this judgment until an arrangement is agreed to or the judgment is paid in full.

Thank You

DAN H Ext - 5348

We accept Western Union, please call them at 1-800-325-6000 for the nearest agent and mention code city (PRESSLER, State, NJ). Payments may be made on the website [www.paypressler.com](http://www.paypressler.com). We also accept Visa/Mastercard, and American Express. If you choose this payment option return this letter along with:

Name as it appears on Credit Card \_\_\_\_\_/Street # & Zip \_\_\_\_\_  
Expires \_\_\_\_/\_\_\_\_ Credit Card # \_\_\_\_\_/Security Code \_\_\_\_\_  
Amount \$ \_\_\_\_\_ Signature \_\_\_\_\_

Upon final payment this debt will be satisfied.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

**CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX**

P&P File 028107

PALISADES COLLECTION, L.L.C.

Plaintiff

Index No. 59211/05

vs.

JACQUELINE ORTIZ

NOTICE

Defendant(s)

TO: JACQUELINE ORTIZ

790 GRAND CONCOURSE APT 2B

BRONX, NY 104513073

**NOTICE TO JUDGMENT DEBTOR OR OBLIGOR**

Money or property belonging to you may have been taken or held in order to satisfy a Judgment or Order which has been entered against you. Read this carefully.

**YOU MAY BE ABLE TO GET YOUR MONEY BACK**

State and Federal Laws prevent certain money or property from being taken to satisfy Judgments or Orders. Such money or property is said to be "exempt". The following is a partial list of money which may be exempt:

1. Supplemental security income, (SSI);
2. Social security;
3. Public assistance (welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Worker's compensation benefits;
8. Public or private pensions;
9. Veteran's benefits;
10. Ninety percent of your wages or salary earned in the last sixty days;
11. Twenty five hundred dollars of any bank account containing statutorily exempt payments that were deposited electronically or by direct deposit within the last forty-five days, including, but not limited to, your social security, supplemental security income, veterans benefits, public assistance, workers' compensation, unemployment insurance, public or private pensions, railroad retirement benefits, black lung benefits, or child support payments;
12. Railroad retirement; and
13. Black lung benefits

If you think that any of your money has been taken or held is exempt, you must act promptly because the money may be applied to the Judgment or Order. If you claim that any of your money has been taken or held is exempt, you may contact the person sending this notice.

Also, YOU MAY CONSULT AN ATTORNEY, INCLUDING ANY FREE/LEGAL SERVICES ORGANIZATION IF YOU QUALIFY. You can also go to court without an attorney to get your money back. Bring this notice with you when you go. You are allowed to try to prove to a judge that your money is exempt from collection under New York CPLR sections 5222(a), 5239 and 5240. If you do not have a lawyer, the clerk of the court may give you forms to help you prove your account contains exempt money that a creditor cannot collect. The law (New York CPLR Art. 4 and sections 5239 and 5240) provides a procedure for determination of a claim to an exemption.

Dated: 05/02/11

Pressler and Pressler, LLP  
Attorney for Plaintiffs/Judgment Creditor  
305 Broadway 9th Floor  
New York, NY 10007  
(516)222-7929  
By: S/ Craig S. Stiller  
Craig S. Stiller

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

## Exhibit B



CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

PALISADES COLLECTION, LLC

Plaintiff(s), Petitioner(s)

against

JACQUELINE ORTIZ

Defendant(s), Respondent(s)

ATTORNEY: Pressler and Pressler

Pressler File No.: 028107

INDEX NO.: 59211/05

## AFFIDAVIT OF SERVICE

STATE OF N.Y.: COUNTY OF NASSAU: ss:

I, Jose Rojas, being duly sworn according to law upon my oath, depose and say, that deponent is not a party to this action, is over 18 years of age and resides in Bronx, NY.

That on November 8, 2005 at 2:18 PM at 790 Grand Concourse, Apt 2B, Bronx, NY 10451, deponent served the Summons & Verified Complaint with Index Number & Date of Filing Endorsed Thereon upon Jacqueline Ortiz, (Defendant/Respondent) herein known as Recipient.

Said service was effected in the following manner;

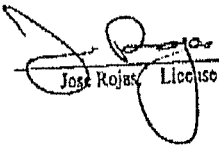
By delivering thereat a true copy of each to Alvilin Negron, a person of suitable age and discretion. That person was also asked by deponent whether said premises was the Recipient's place of residence and their reply was affirmative.

Deponent describes the individual served to the best of deponent's ability at the time and circumstances of service as follows: Sex: Female Skin: Hispanic Hair: Black Age(Approx): 45 Height(Approx): 5' 6" Weight(Approx): 130-140 lbs Other:

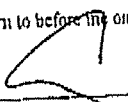
On November 9, 2005, after delivery of process was effected, deponent enclosed an additional true and attested copy of same in postpaid envelope addressed to the Recipient at Recipient's place of residence in an official depository under the exclusive care of the United States Postal Service within New York State. The envelope bore the Legend "Personal & Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the Recipient.

I asked the person spoken to if the Recipient was in active military service of the United States or the State of New York in any capacity and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the Recipient is not in the military service of New York State or the United States as that term is defined in the statutes of New York State or the Federal Soldiers and Sailors Civil Relief Act.

I certify that the foregoing statements made by me are true, correct and my free act and deed. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

 Jose Rojas License No. 1017431

Sworn to before me on November 9, 2005

  
Alan Leibowitz  
Notary Public, State of New York  
Registration No. 011E6029931  
Qualified in Nassau County  
Commission Expires August 30, 2009

Executive Attorney Service (516) 333-3447  
Case No.: 43975

# Exhibit C

1st OTSC

## Civil Court of the City of New York

County of Bronx Part 34C



PALISADES COLLECTION, L.L.C.  
 -against-  
 JACQUELINE ORTIZ

Index Number CV-059211-05/BX

## ORDER TO SHOW CAUSE

To Vacate a Judgment, restore case to the Calendar, and vacate any liens and income executions involving this defendant on this case and or to dismiss

APPEARANCE IS MANDATORY

UPON the annexed affidavit of JACQUELINE ORTIZ, sworn to on June 9, 2011, and upon all papers and proceedings herein:

Let the Claimant(s)/Plaintiff(s) or Claimant(s)/Plaintiff(s) attorney(s) show cause at:

Civil Court of the City of New York  
 851 Grand Concourse  
 Bronx, NY 10451

Part 34C

Room 504

on June 21, 2011 at 9:30 AM

Tuesday

or as soon thereafter as counsel may be heard, why an order should not be made:

VACATING the Judgment, restoring to the calendar, vacating any liens and income executions and/or granting such other and further relief as may be just.

PENDING the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Claimant(s)/Plaintiff(s), Claimant(s)/Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York for the enforcement of said Judgment be stayed.

SERVICE of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Claimant(s)/Plaintiff(s) or named attorney(s):  
 (Judge to Initial)

Sheriff or Marshal:  
 (Judge to Initial)

☒ by Personal Service by "In Hand Delivery"  
☒ by Certified Mail, Return Receipt Requested  
☐ by First Class Mail with official Post Office  
 Certificate of Mailing

☒ by Personal Service by "In Hand Delivery"  
☒ by Certified Mail, Return Receipt Requested  
☐ by First Class Mail with official Post Office  
 Certificate of Mailing

on or before June 13, 2011, shall be deemed good and sufficient.

PROOF OF SUCH SERVICE shall be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Attorney(s): Mail to:  
 PRESSLER & PRESSLER (Counsel for Plt)  
 305 BROADWAY, 9TH FLOOR  
 NEW YORK, NY 10007-

Sheriff/Marshal:  
 NYC marshal  
 Bienstock, Gregg E., Marshal  
 36-35 Bell Boulevard  
 PO Box 610700  
 Bayside, NY 11361-0700

June 9, 2011

DATE

Hon. Robert R. Reed, Civil Court Judge (NYC)

*Delia*  
*Bronx*  
CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

Index No. 59211/05

PALISADES COLLECTION, LLC,

Plaintiff,

v.

JACQUELINE ORTIZ,

Defendant.

AFFIDAVIT IN SUPPORT OF AN  
ORDER TO SHOW CAUSE  
To Vacate a Judgment  
For Failure to Answer

Movant's address:  
790 Grand Concourse, Apt. 2B  
Bronx, NY, 10451

State of New York, County of Bronx ss.:

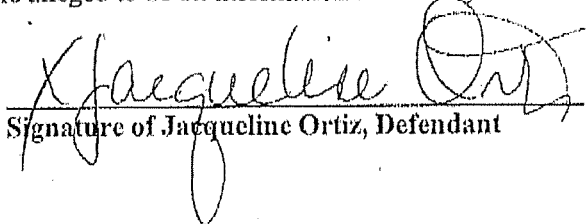
JACQUELINE ORTIZ, being duly sworn, deposes and says:

1. I am a defendant and I am making this request in support of the Order to Show Cause to vacate a default judgment in this case.
2. I did not file an answer to the Complaint with the court because of the following excusable default:
  - a. I never received the court papers.
3. I have the following meritorious defense(s):
  - a. I do not owe the money.
  - b. I have no business relationship with the plaintiff so the plaintiff lacks standing.
4. I want to tell the judge the following: \_\_\_\_\_
5. I have not asked for a previous Order to Show Cause in this case.

VERIFICATION

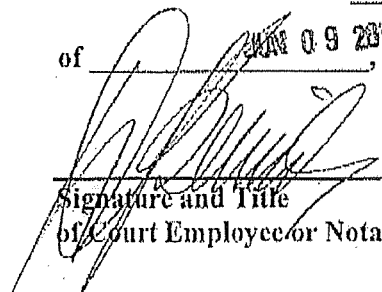
State of New York, County of Bronx ss.:

JACQUELINE ORTIZ, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

  
Signature of Jacqueline Ortiz, Defendant

Sworn to before me this \_\_\_\_\_ day

of MAY 09 2011, 20\_\_\_\_.

  
Signature and Title  
of Court Employee or Notary

COURT  
REV. ASSIST.

## Exhibit D

028107

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX: Part 34C, No. 8A

Index No. CV-059211-05/BX

PALSADES COLLECTION, LLC

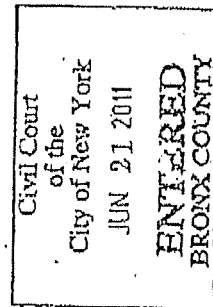
Plaintiff[s],

v.

DECISION/ORDER

JACQUELINE ORTIZ,

Pro se Defendant[s].



Recitation, as required by CPLR 2219(a), of the papers considered in review of this Order to Show Cause/Motion to Vacate Default Judgment and Restore to the Calendar:

<u>Papers</u>	<u>Numbered</u>
Notice of Motion and Affidavits Annexed .....	_____
Order to Show Cause and Affidavits Annexed .....	_____
Answering Affidavits .....	_____
Replying Affidavits .....	_____
Exhibits: .....	_____
Other .....	_____

Upon the foregoing papers, the Decision on this Order to Show Cause/Motion is as follows:

This Order to Show Cause/Motion to Vacate Default Judgment and Restore to the Calendar is GRANTED NOT ON CONSENT.

~~At~~ <sup>HHS</sup> Movant-Defendant filed a Proposed Answer, it is deemed accepted by this Court. If not, Movant-Defendant is directed to serve and file an Answer without a jurisdictional defense, at Window 14 on the Ground Floor of this Courthouse within twenty (20) days from this Order's date.

Upon filing the Answer, any liens, restraining orders, garnishments, or executions placed by Plaintiff upon Defendant's personal property such as bank accounts and salaries will be vacated and lifted by Plaintiff. Any funds executed upon, in the possession of Plaintiff, City Marshal, Sheriff, or any other agent shall be returned by Plaintiff to Defendant[s] immediately.

The Clerk is directed to place this case on the active trial calendar for conference or trial on Tues., July 10, 2011, at 10:30 a.m.

Sept. 13, 2011 HHS. ARTIE CORTES SERVICE.

If Defendant[s] fail[s] to comply with this Order's terms, the judgment shall continue in full force and effect, and all stays shall be deemed vacated.

This constitutes the Decision and Order of this Court.

JUNE 21, 2011  
Date

Hon. Fernando Tapia, J.C.C.

Exhibit E



MAURICE H. PRESSLER (1930-2002)  
SHELDON H. PRESSLER

GERARD J. FELT  
STEVEN P. McCABE  
LAWRENCE J. McDERMOTT, JR.

MITCHELL L. WILLIAMSON  
CHRISTOPHER P. ODGIBILI  
THOMAS M. BROGAN  
JOANNE L. D'AUORIZIO  
RALPH GULKO

**PRESSLER AND PRESSLER, LLP**

COUNSELLORS AT LAW  
7 Entin Rd.

Parsippany, NJ 07054-5020

Off: (973) 753-5100

Fax: (973) 753-5353

NY Office:

305 Broadway, 9<sup>th</sup> Floor

New York, NY 10007

Office: (516) 222-7929

Fax: (973) 753-5353

E-MAIL: [Pressler@Pressler-Pressler.com](mailto:Pressler@Pressler-Pressler.com)

Please Reply To:

[X] New Jersey Office [ ] New York Office

DALE L. GELBER

CRAIG S. STILLER

STEVEN A. LANG

DANIEL B. SULLIVAN

GINA M. LO BUE

DARYL J. KIPNIS

DARREN H. TANAKA

MITCHELL E. ZIPKIN

MICHAEL J. PETERS

RITA E. AYCOB

\* NY STATE LICENSE ONLY

OFFICE HOURS:

Monday-Thursday 8am-6pm

Friday 8am-7pm

Saturday 9am-2pm

JUNE 15, 2011

JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

Re: PALISADES COLLECTION, L.L.C. vs JACQUELINE ORTIZ

Civil Court of the City of New York

County Of BRONX Index No 59211/05

P&P File Number O28107

Original Creditor: AT&T Wireless

Original Account: 002500000057733040

Current Balance: \$4,831.25

Dear Ms. Ortiz:

Enclosed please find the Plaintiff's Affirmation in Opposition to the Defendant's Order to Show Cause.

Should you have any questions or wish to discuss a settlement agreement, please call this office at 1 (888) 312-8600 and speak with me directly at ext. 5301 or any attorney assistant at ext. 5656.

Very truly yours,

PRESSLER & PRESSLER, LLP

Mitchell E. Zipkin

MEZ/mz

Enc.

This is a communication from a debt collector. This is an attempt to collect a debt.  
Any information obtained will be used for that purpose.

L &amp; P File Number O28107

Civil Court of the City of New York  
County Of BRONX

PALISADES COLLECTION, L.L.C.	)	<u><b>AFFIRMATION IN OPPOSITION</b></u>
Plaintiff,	)	
-against-	)	INDEX NO.: 59211/05
JACQUELINE ORTIZ	)	
Defendant(s)	)	
	)	
	)	

*Mitchell E. Ziplin*, an attorney at law duly admitted and licensed in the State of New York, affirms that the following statements are true under the penalties of perjury that:

1. I am associated with the attorney for the Plaintiff, and I am fully familiar with all the facts and circumstances of this action.
2. I make this affirmation in opposition to Defendant's Order to Show Cause to vacate a judgment, restore the case to the calendar, and vacate any liens and income executions involving this Defendant on this case and/or to dismiss pursuant to CPLR §§ 317 and 5015.
3. Defendant's application must be denied as procedurally deficient as Defendant has failed to attach a copy of the judgment which she seeks to vacate. The failure to attach the requisite pleadings to the moving papers generally requires denial of the motion. See Bonded Concrete v. Town of Saugerties, 3 AD3d 729, 730 (2004).
4. Moreover, Defendant's affidavit in support of the Order to Show Cause fails to state an excusable reason for default nor does it set forth a meritorious defense. Defendant's excuse that she did not receive the court papers is insufficient as a matter of law. Defendant fails to state what court papers she allegedly did not receive.
5. Substituted service of the summons and verified complaint pursuant to CPLR § 308(2) upon

the Defendant was completed on November 8, 2005, by delivery of a true copy to "Alvilin Negro," a person of suitable age and discretion who confirmed that the Defendant resided at the premises and on November 9, 2005, by mail. See Affidavit of Service attached as Exhibit A.

6. It is well settled that a process server's sworn Affidavit of Service ordinarily constitutes *prima facie* evidence of proper service. Lattingtown Harbor Prop. Owners Assn., Inc. v. Agostino, 34 AD3d 536, 538 (Second Dept. 2006).
7. Although a Defendant's sworn denial of receipt of service generally rebuts the presumption of proper service established by a process server's affidavit and necessitates an evidentiary hearing, no hearing is required where the Defendant fails to swear specific facts to rebut the statements in the process server's affidavits. See Scarano v. Scarano, 63 AD3d 716 (N.Y. App. Div. 2d Dep't 2009); Simonds v. Grobman, 277 AD2d at 370 (N.Y. App. Div. 2d Dep't 2000).
8. Here, the Defendant's bare denial of service is insufficient to rebut the prima facie proof of proper service pursuant to CPLR 308(2).
9. On December 2, 2005, the undersigned's office served another copy of the Summons and Complaint to the Defendant by regular mail.
10. On August 17, 2006, August 30, 2007, December 8, 2008, April 26, 2010, and May 2, 2011, Judgment Notices were mailed to the Defendant at the address she lists on her affidavit, attached hereto as Exhibit C, which were not returned to this office.
11. Notably, the following documents, attached hereto as Exhibit D, were all mailed to the same address, which is the address the Defendant lists on her affidavit, that address being: 790 Grand Concourse, Apt. 2B, Bronx, NY 10451-3073 :
  - FDCPA Notice on or about August 26, 2005
  - Notice to Defendant on or about February 4, 2011
12. In fact, all mailings (over five years worth) and service of the summons and complaint were to

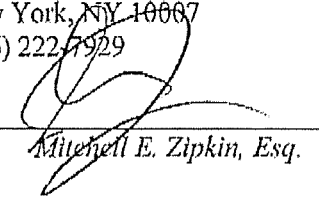
the address the Defendant states on her affidavit.

13. It is noted that your Affirmant's office has never received any returned mail addressed to the Defendant at the address where she was served, nor does she deny residing there on the date of service. Additionally, Defendant fails to attach any admissible proof of problems receiving mail at the address where she was served. Therefore, Defendant's self-serving and unsupported statement of never receiving the court papers fails in light of the regularity presumed in U.S. Postal Service mailings.
14. The above demonstrates that Defendant simply ignored this matter for years until her wages were about to be garnished.
15. Equally lacking is the Defendant's meritorious defense. Defendant does not deny the debt or claim it did not go into default for nonpayment. Defendant merely states that she does not have a business relationship with the Plaintiff and that she does not owe the money.
16. To be clear, Plaintiff is the owner of the Defendant's defaulted AT&T Wireless account 002500000057733040 that was opened in Defendant's name on May 31, 2000.
17. Judgment was entered against the Defendant on August 10, 2006, nearly five years ago. The judgment is attached hereto as Exhibit E. Since no mailings were returned, Defendant's application is untimely pursuant to CPLR 5015(a) in that it is post one year since the judgment was entered.
18. Based upon the foregoing, Defendant fails to establish the excusable reason for default required by CPLR § 5015 and the meritorious defense required by both CPLR §§ 5015 and 317 to vacate a judgment, restore the case to the calendar, and vacate any liens and income executions involving this Defendant on this case and/or to dismiss.

WHEREFORE, Plaintiff respectfully requests that Defendant's Order to vacate a judgment, restore the case to the calendar, and vacate any liens and income executions involving this Defendant on this case and/or to dismiss be denied in its entirety.

*Affirmed: June 15, 2011*

PRESSLER & PRESSLER, LLP  
*Attorney for Plaintiff*  
305 Broadway, 9<sup>th</sup> Floor  
New York, NY 10007  
(516) 222-7929

By:   
\_\_\_\_\_  
*Mitchell E. Zipkin, Esq.*

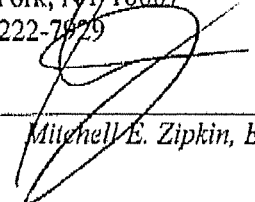
Civil Court of the City of New York  
County Of BRONX

PALISADES COLLECTION, L.L.C.	)	<u><b>AFFIRMATION OF SERVICE</b></u>
Plaintiff,	)	
	)	<u><b>BY MAIL</b></u>
-against-	)	INDEX NO.: 59211/05
JACQUELINE ORTIZ	)	
Defendant(s)	)	
	)	
	)	

*Mitchell E. Zipkin*, an attorney admitted to practice in the Courts of the State of New York, associated with the firm of Pressler and Pressler LLP, Attorneys for Plaintiff, affirm under the penalty of perjury that I am not a party to the action, and on **JUNE 15, 2011**, the attached Affirmation in Opposition to Defendant's Order to Show Cause and Exhibits were served by depositing a copy thereof in a first class postage paid wrapper, addressed to the address designated for that purpose in an official depository under the exclusive care and custody of the United States Postal Service, that address being:

JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 10451-3073

PRESSLER & PRESSLER, LLP  
*Attorney for Plaintiff*  
305 Broadway, 9<sup>th</sup> Floor  
New York, NY 10007  
(516) 222-7529

By:   
*Mitchell E. Zipkin, Esq.*

**EXHIBIT A**

# EXHIBIT B



*PRESSLER AND PRESSLER*

HAIRICE H. PRESSLER (1930-2002)  
SHELDON H. PRESSLER

GERARD J. FELT  
STEVEN P. MCCANE  
LAWRENCE J. MCCORMACK, JR.

MATTHEW H. ROTH  
MITCHELL L. WILLIAMSON  
JAMES D. PADGETT  
THOMAS H. BROGAN  
NEIL GREENSTEIN  
BRETT K. KUNIN

COUNSELLORS AT LAW  
16 Wing Drive  
Cedar Knolls, N.J. 07927  
Cell: (973) 753-5100  
Fax: (973) 753-5353

NY Office  
990 Stewart Avenue  
Suite 30  
Garden City, NY 11530  
Office (516) 222-7929  
Fax: (516) 753-5353  
Reply to [X] NJ Office [ ] NY Office

RALPH GULKO  
JOHANN L. D'AMICO  
LISA A. PEREZ  
MICHAEL ROSE  
TIMOTHY A. WANG  
AMY S. MILLER  
DAVID HIRSHMAN  
GRAN D. BAHAYAN  
Also Member of:  
\*NY Bar, \*\*NY Bar Only  
\*\*\*PA Bar, \*\*\*\*PA & DC Bars  
\*\*\*\*\*PA and NY Bars  
\*\*\*\*\*NY, DC and FL Bars

JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

12/02/05

Re: PALISADES COLLECTION, L.L.C.  
JACQUELINE ORTIZ  
P&P File # 028107  
Index No. 59211/05

Dear JACQUELINE ORTIZ

I am the attorney for the above named client. I have received an affidavit of service from a process server that a summons and complaint have been served upon you with respect to the above entitled action.

The enclosed copy of the summons and complaint is being forwarded to you by regular mail in accordance with New York State Law.

If you wish to discuss this matter to curtail further litigation, it is suggested that you call this office as soon as conveniently possible.

Your prompt response may lead to a very favorable settlement or payment arrangement.

Very truly yours,

PRESSLER AND PRESSLER

s/ Ralph Gulko

Ralph Gulko

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

**EXHIBIT C**

**CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX**

PALISADES COLLECTION, L.L.C.

Plaintiff

vs.

JACQUELINE ORTIZ

Defendant (s)

P&P File 028107

Index No. 59211/05

NOTICE

TO: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

**NOTICE TO JUDGMENT DEBTOR OR OBLIGOR**

Money or property belonging to you may have been taken or held in order to satisfy a Judgment or Order which has been entered against you. Read this carefully.

**YOU MAY BE ABLE TO GET YOUR MONEY BACK**

State and Federal Laws prevent certain money or property from being taken to satisfy Judgments or Orders. Such money or property is said to be "exempt". The following is a partial list of money which may be exempt:

1. Supplemental security income, (SSI);
2. Social Security;
3. Public Assistance (Welfare);
4. Alimony or Child Support;
5. Unemployment Benefits
6. Disability Benefits;
7. Worker's Compensation Benefits;
8. Public or Private Pensions; and
9. Veteran's Benefits

If you think that any of your money has been taken or held as exempt, you must act promptly because the money may be applied to the Judgment or Order. If you claim that any of your money has been taken or held is exempt, you may contact the person sending this notice.

Also, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. The law (New York Civil Practice Laws and Rules, Article four and sections fifty-two hundred thirty-nine and fifty-two hundred forty provides a procedure for determination of a claim to an exemption.

Dated: 08/17/06

Pressler and Pressler, L.L.P.  
Attorney for Plaintiffs/Judgment Creditor  
990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516) 222-7929

By: S/ Richard A. Franklin

Richard A. Franklin

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

HAROLD H. PRESSLER (1930-2002)  
HAROLD H. PRESSLER

GRAND J. FELT  
STEVEN P. MCCARR  
LAWRENCE J. MCCORMACK, JR.

MATTHEW H. RUDD  
MITCHELL L. WILLIAMSON  
JAMES D. PABST  
THOMAS H. BROGAN  
NEIL GREENHUTER  
RALPH GUSKO  
JOHN L. D'AMRIZIO

**PRESSLER AND PRESSLER, L.L.P.**

COUNSELLORS AT LAW  
16 Wing Drive  
Cedar Knolls, N.J. 07927  
OFF: (973) 753-5100  
FAX: (973) 753-5353

NY Office  
990 Stewart Avenue  
Suite 30  
Garden City, NY 11530  
OFF: (516) 222-7929  
FAX: (973) 753-5353  
Reply to [X] NJ Office [ ] NY Office

LISA A. PEREZ  
MICHAEL ROSE\*  
TIN-AN A. WANG  
AMY S. MILLER\*  
PETER H. FISH  
ANTHONY J. CHIRLES JR.  
ALEXANDER TSIRING\*  
RICHARD A. FRANKLIN\*  
STEVEN P. BANN  
ANGELO CAVALLO\*

\* NY State License Only

08/16/06

JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

RE: PALISADES COLLECTION, L.L.C. -vs- JACQUELINE ORTIZ  
CIVIL COURT OF THE CITY OF NEW YORK  
County of BRONX Index #: 59211/05  
P&P FILE NO 028107

Dear JACQUELINE ORTIZ :

Please be advised that the above creditor recently obtained a judgment against you upon which the amount of \$3,338.43 is due.

The judgment is valid for twenty (20) years. During that period, interest will accrue on the judgment at the statutory rate which is currently nine percent (9%).

Please call this office toll free at 1-888-312-8600 to discuss this matter. We will proceed to enforce this judgment until an arrangement is agreed to or the judgment is paid in full.

We accept Western Union, please call them at 1-800-325-6000 for the nearest agent and mention code city (PRESSLER, State, NJ).

Payments may be made on the website [www.paypressler.com](http://www.paypressler.com). We also accept Visa/Mastercard, and American Express. If you choose this payment option return this letter along with:

Name as it appears on Credit Card \_\_\_\_\_  
Expires \_\_\_\_/\_\_\_\_ Credit Card # \_\_\_\_\_

Amt \$ \_\_\_\_\_ Signature \_\_\_\_\_

Upon final payment this debt will be satisfied.

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

HAURICE H. PRESSLER (1930-2007)  
SHELDON H. PRESSLER

GERARD J. FELT  
STEVEN P. MCCABE  
LAWRENCE J. MCCORMOTT, JR.

MATTHEW H. RUDD  
MITCHELL L. WILLIAMSON  
JAMES D. PAGEETT  
THOMAS H. BROWN  
RALPH GULKO  
JOANNE L. D'AURIZIO  
MICHAEL ROSA\*

**PRESSLER AND PRESSLER, L.L.P.**

COUNSELLORS AT LAW  
16 Wing Drive  
Cedar Knolls, N.J. 07927  
Off: (973) 753-5100  
Fax: (973) 753-5333

NY Office  
990 Edwards Avenue  
Suite 30  
Garden City, NY 11530  
Off: (516) 222-7922  
Fax: (973) 753-5353  
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ANTHONY J. CHIRLES JR.  
STEVEN P. HARR  
ANGELO CARALBO\*  
CHRISTOPHER P. ODOGBILL  
RICHARD C. CHANG  
ROBERT A. DITTES\*\*  
DALE L. GELBER  
LORI R. KETANI  
ANDREY L. KAPLINSKY  
BENJAMIN J. GINTRE

\* NY State License Only  
\*\* PA State License Only

08/30/07

TO: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

RE: PALISADES COLLECTION, L.L.C. -vs- JACQUELINE ORTIZ  
CIVIL COURT OF THE CITY OF NEW YORK  
County of BRONX Index #: 59211/05  
P&P FILE NO 028107

Dear JACQUELINE ORTIZ :

Please be advised that the above creditor obtained a judgment in the above reference matter upon which the amount of \$3,609.26 is due.

The judgment is valid for twenty (20) years. During that period, interest will accrue on the judgment at the statutory rate which is currently nine percent (9%).

Please call this office toll free at 1-888-312-8600 to discuss this matter. We will proceed to enforce this judgment until an arrangement is agreed to or the judgment is paid in full.

We accept Western Union, please call them at 1-800-325-6000 for the nearest agent and mention code city (PRESSLER, State, NJ).

Payments may be made on the website [www.paypressler.com](http://www.paypressler.com). We also accept Visa/Mastercard, and American Express. If you choose this payment option return this letter along with:

Name as it appears on Credit Card \_\_\_\_\_  
Expires \_\_\_\_/\_\_\_\_ Credit Card # \_\_\_\_\_

Amt \$ \_\_\_\_\_ Signature \_\_\_\_\_

Upon final payment this debt will be satisfied.

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

**CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX**

FALISADES COLLECTION, L.L.C.

Plaintiff

vs.

JACQUELINE ORTIZ

Defendant(s)

P&P File 028107

Index No. 59211/05

NOTICE

TO: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

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4. Alimony or Child Support;
5. Unemployment Benefits
6. Disability Benefits;
7. Worker's Compensation Benefits;
8. Public or Private Pensions; and
9. Veteran's Benefits

If you think that any of your money has been taken or held as exempt, you must act promptly because the money may be applied to the Judgment or Order. If you claim that any of your money has been taken or held is exempt, you may contact the person sending this notice.

Also, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. The law (New York Civil Practice Laws and Rules, Article four and sections fifty-two hundred thirty-nine and fifty-two hundred forty provides a procedure for determination of a claim to an exemption.

Dated: 08/30/07

Pressler and Pressler, LLP  
Attorney for Plaintiffs/Judgment Creditor  
990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516)222-7929

By: S/ Lori R. Cetani  
Lori R. Cetani

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

MAURICE K. PRESSLER (1930-2002)  
SHELEKH H. PRESSLER

GERARD J. FELT  
STEVEN P. MCCABE  
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RALPH GILKO  
JOANNE L. D'AVRIZIO  
MICHAEL ROUGH  
ANTHONY J. CHIRMAN JR.

PRESSLER AND PRESSLER, L.L.P.  
COUNSELLORS AT LAW  
7 Entin Road  
Passippany, NJ 07054-5020  
OFF: (973) 753-5100  
FAX: (973) 753-5353

NY Office  
305 Broadway  
9th Floor  
New York, NY 10007  
OFF: (516) 222-7929  
FAX: (973) 753-5353  
Reply to [X] NY Office [ ] NY Office [ ] PA Office

PA Office  
196 West Ashland Street  
Doylestown, PA 19901

OFF: (215) 860-3337  
FAX: (973) 753-5353

STEVEN P. BAHN  
CHRISTOPHER P. ODGOBILI  
RUSSELL A. DITTMER\*\*  
DALE L. GELBER  
CRAIG S. STILLER\*

LARI R. CETANI  
DARYL J. KIPNIS  
THOMAS H. KRICK  
MATTHEW M. GURKAN

\* NY State License Only  
\*\* PA State License Only

OFFICE HOURS:  
Monday-Thursday: 9am-5pm  
Friday: 9am-7pm  
Saturday: 9am-2pm

12/08/08

|||||

TO: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

RE: PALISADES COLLECTION, L.L.C. -vs- JACQUELINE ORTIZ  
CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX  
Index #: 59211/05  
P&P FILE NO 028107

Dear JACQUELINE ORTIZ :

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Please call this office toll free at 1-888-312-8600 to discuss this matter. We will proceed to enforce this judgment until an arrangement is agreed to or the judgment is paid in full.

We accept Western Union, please call them at 1-800-325-6000 for the nearest agent and mention code city (PRESSLER, State, NJ).

Payments may be made on the website [www.paypressler.com](http://www.paypressler.com). We also accept Visa/Mastercard, and American Express. If you choose this payment option return this letter along with:

Name as it appears on Credit Card \_\_\_\_\_  
Expires \_\_\_\_/\_\_\_\_ Credit Card # \_\_\_\_\_

Amt \$ \_\_\_\_\_ Signature \_\_\_\_\_

Upon final payment this debt will be satisfied.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

**EXHIBIT E**



CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

P&amp;P File 028107

PALISADES COLLECTION, L.L.C.  
Plaintiff  
vs.

Index No. 59211/05

JACQUELINE ORTIZ  
Defendant(s)

## JUDGMENT

AMOUNT CLAIMED IN COMPLAINT LESS CREDITS ON ACCOUNT (\$0.00 ) ..... \$3,165.92  
INTEREST AT 9.00 % FROM 10/24/05 to 04/03/06 ..... \$82.51Costs by Statute..... \$20.00  
Service of Summons and complaint.... \$25.00  
Fee for Index Number..... \$45.00  
Prospective Execution Fee..... \$0.00Costs Taxed At .....  
Total..... \$90.00  
\$3,338.43

STATE OF NEW YORK, COUNTY OF NASSAU

The undersigned, an attorney at law of the State of New York, the attorney(s) of record for the Plaintiff(s) herein, subscribes and affirms under penalties of perjury, that the disbursements above specified are correct and true and have been or will be necessarily be made or incurred herein and are reasonable in amount; that the Defendant(s) have failed to appear, answer or move herein and the time to do so has expired so that Plaintiff is entitled to a judgment by default. On 11/29/2005, Deponent mailed a copy of the summons in separate post-paid envelopes in an official depository of the U.S. Postal Service, addressed to each defaulting defendant's last known residence address as set forth below, by first class mail in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof that the communication was from an attorney or concerns an alleged debt. More than 20 days have elapsed and the same have not been returned as undeliverable by the U.S. Postal Service.

Pursuant to affidavits of service on file herein, deponent alleged that defendant(s) are not in the military service.  
Plaintiff waives its cause of action based on an account stated and attorney fees.

Dated: 07/14/06

*Richard A. Franklin*  
Richard A. Franklin Esq.  
Pressler & Pressler  
990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516) 222-7929

JUDGEMENT ENTERED ON: \_\_\_\_\_

ADJUDGED that PALISADES COLLECTION, L.L.C., Plaintiff, with offices at 210 SYLVAN AVE ENGLEWOOD CLIFFS NJ 07632, recover of JACQUELINE ORTIZ, Defendant residing at 790 GRAND CONCOURSE APT 2B BRONX, NY 104513073 in the sum of \$3,165.92 with Interest of \$82.51 making a total of \$3,248.43, together with costs and disbursements of \$90.00 amounting in all to the sum of \$3,338.43 and that the Plaintiff(s) have execution therefor.

Clerk

# Exhibit F

*Marshal  
City of  
New York*



**GREGG E. BIENSTOCK**

**Badge No. 17**

36-35 Bell Boulevard  
P.O. Box 610700  
Bayside, N.Y. 11361-0700  
FAX: 718-423-0014

(718) 279-3774

June 7, 2011

ORTIZ, JACQUELINE  
790 GRAND CONCOURSE  
APT #2B  
BRONX NY 10451 3073

JUDGMENT CREDITOR

PALISADES COLLECTION, LLC

VS

ORTIZ, JACQUELINE

JUDGMENT DEBTOR

## NOTICE OF GARNISHMENT

Please take notice that a judgment has been entered against the above named judgment debtor. Pursuant to the **INCOME EXECUTION** delivered to me, you are required to make arrangements and have your first payment in my office within 20 days from the above date. Upon your default, a copy of this execution will be served upon any person (corporation, etc.) from whom you are receiving or will receive money and will result in additional costs to you.

JUDGMENT . . . . .	\$3,338.43
STATUTORY MARSHAL FEES . . . . .	\$0.00
POUNDAGE . . . . .	\$239.84
EXPENSE . . . . .	\$6.45
INTEREST . . . . .	\$1,452.11
<b>TOTAL . . . . .</b>	<b>\$5,036.83</b>

IN ADDITION, INTEREST FROM 06/07/11 will be calculated on a daily basis. You will be notified of the final balance due when your payments approach completion.

ALL PAYMENTS SHOULD BE MARKED  
WITH YOUR NAME AND THIS DOCKET NUMBER:

**S75571**

and be made payable to:

**GREGG E. BIENSTOCK**  
City Marshal - Badge No.17

the City of New York  
Bronx

Index Number: CV-059211-05/BX



LISADES COLLECTION, L.L.C.  
-against-  
JACQUELINE ORTIZ

**AFFIDAVIT IN SUPPORT TO  
Vacate Inquest Clerk, stay  
entry of the judgment and  
restore to the Trial Calendar**

State of New York, Bronx

JACQUELINE ORTIZ, being duly sworn, deposes and says:

(Initials)

1. X a) I am the party named as (Defendant) (Respondent) in the above titled proceeding.  
Jo
2. X I request that the Court issue an order for: Vacate Inquest Clerk, stay the entry of judgment and  
Jo restore to the Trial Calendar

3. X I have a good defense because: I do not owe the money.  
Jo On the court date that I missed (12/13/11)  
the plaintiff was to show a "discovery". In addition,  
I have not done any business with the plaintiff.

4. X I have a good excuse/reason because: The Plaintiff sent me a  
Jo notice of discontinuing Action and said they  
filed it in court. Also I called and they said  
the case was dismissed.

5. (a) I have not had a previous Order to Show Cause regarding this Index Number
- X (b) I have had a previous Order to Show Cause regarding this index number but I am making this  
Jo further application because I want to make sure this case is  
dismissed

Sworn to before me this day  
December 19, 2011

(Sign Name) Jacqueline Ortiz  
JACQUELINE ORTIZ, residing at 790 GRAND  
CONCOURSE, APT 2B, Bronx, NY 10451-

COURT  
REV. ASSIST.

Signature of Court Employee and Title

**Civil Court of the City of New York  
County Of BRONX**Judgment Creditor  
PALISADES COLLECTION, L.L.C.**P&P File 028107**

Index No. 59211/05

Judgment Debtor(s)  
JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073**INCOME EXECUTION  
THE PEOPLE OF THE STATE OF NEW YORK  
TO THE ENFORCEMENT OFFICER, GREETING:**

A judgment was entered in the within court in favor of the Judgment Creditor(s) and the particulars as follows:

<u>Court of Original Entry</u>	<u>Entry Date</u>	<u>Original Amount</u>	<u>Amount Due</u>	<u>Plus Interest From</u>
CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF BRONX	08/10/06	3,338.43	3,338.43	08/10/06

This execution is issued against JACQUELINE ORTIZ whose last known address is 790 GRAND CONCOURSE APT 2B BRONX, NY 104513073 and who is receiving or will receive \$300.00 for each Weekly pay period from the Employer, "Employer," herein, includes any payor of money to Judgment Debtor. The Employer's name and address is THAYER MEDICAL PC 4738 BROADWAY NEW YORK NY 100401103. Employer's telephone number is 212-569-5330.

**You are directed to** satisfy the judgment with interest together with your fees and expenses, out of all monies now and hereafter due and owing to the Judgment Debtor from the Employer pursuant to CPLR SEC. 5231.

**Directions of Judgment Debtor:** You are notified and commanded immediately to start paying the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in **I. Limitations on the amount that can be withheld**, below) of any and all salary, wages or other income, including any and all overtime earnings, commissions or other irregular compensation received or hereafter to be received from your Employer and to continue paying such installments until the judgment with interest and the fees and expenses of this Income Execution are fully paid and satisfied, and if you fail to do so within 20 days this Income Execution will be served upon the Employer by the Enforcement Officer.

**Directions to the Employer:** You are commanded to withhold and pay over to the Enforcement Officer serving a copy of this Income Execution on you: installments amounting to 10% (but no more than the Federal limits set forth in **I. Limitations on the amount that can be withheld**, below) of any and all salary, wages, or other income, including any and all overtime earnings, commissions or other irregular compensation now or hereafter becoming due to Judgment Debtor until the judgment with interest and the fees and expenses of this Income Execution are fully paid and satisfied.

Dated:05/30/11

PRESSLER and PRESSLER, LLP  
Attorney for Plaintiffs/Judgment Creditor  
305 Broadway 9th Floor  
New York, NY 10007  
(516)222-7929

By: 

Mitchell E. Zipkin

## IMPORTANT STATEMENT

This income execution directs the withholding of up to 10 percent of the judgment debtor's gross income. In certain cases, however, state or federal law does not permit the withholding of that much of the judgment debtor's gross income. The judgment debtor is referred to New York Civil Practice Law and Rule Sec. 5231 and 15 United States Code Sec. 1671 *et seq.*

### I. Limitations on the amount that can be withheld

- A. An income execution for installments from a judgment debtor's gross income cannot exceed ten (10%) percent of the judgment debtor's gross income.
- B. If a judgment debtor's weekly disposable earnings are less than the greater of thirty (30) times the current federal minimum wage ( \$7.25 \* per hour, or \$217.50 ) or the New York State minimum wage ( \$7.25 \* per hour, or \$217.50 ) no deduction can be made from the judgment debtor's earnings under this income execution.
- C. A judgment debtor's weekly disposable earnings cannot be reduced below the amount arrived at by multiplying thirty (30) times the greater of the current federal minimum wage ( \$7.25 \* per hour, or \$217.50 ) or the New York State minimum wage ( \$7.25 \* per hour, or \$217.50 ) under this income execution.
- D. If deductions are being made from a judgment debtor's earnings under any orders for alimony, support or maintenance for family members or former spouses, and those deductions equal or exceed twenty-five (25%) percent of the judgment debtor's disposable earnings, no deductions can be made from the judgment debtor's earnings under this income execution.
- E. If deductions are being made from a judgment debtor's earnings under any orders for alimony, support or maintenance for family members or former spouses, and those deductions are less than twenty-five (25%) percent of the judgment debtor's disposable earnings, deductions may be made from the judgment debtor's earnings under this income execution. However, the amount arrived at by adding the deductions from earnings under this execution to the deductions made from earnings under any orders for alimony, support or maintenance for family members or former spouses, cannot exceed twenty-five (25%) percent of the judgment debtor's disposable earnings.

#### Notice

Pursuant to CPLR 5205(1), \$2,500 of an account containing direct deposit or electronic payments reasonably identifiable as statutorily exempt payments, as defined in CPLR 5205(1)(2), is exempt from execution and the garnishee cannot levy upon or restrain \$2,500 in such an account.

Pursuant to CPLR 5222(1), an execution shall not apply to an amount equal to or less than 90% of the greater of 240 times the federal minimum hourly wage prescribed in the Fair Labor Standards Act of 1938 or 24 times the state minimum hourly wage prescribed in Labor Law 652 as in effect at the time the earnings are payable, except such part as a court determines to be unnecessary for the reasonable requirements of the judgment debtor and his or her dependents.

**NOTE: Nothing in this notice limits the proportion or amount which may be deducted under any order for alimony, support or maintenance for family members or former spouses.**

### II. Explanation of Limitations

#### Definitions:

**Disposable Earnings** - Disposable earnings are that part of an individual's earnings left after deducting those amounts that are required by law to be withheld (for example, taxes, social security, and unemployment insurance but not deduction for union dues, insurance plans, etc.).

**Gross Income** - Gross income is salary, wages, or other income, including any and all overtime earnings, commissions, and income from trusts, before any deductions are made from such income.

#### Illustrations regarding earnings:

**If disposable earnings is:**

**amount to pay or deduct from earnings  
under this income execution is:**

- (a) 30 times the greater of federal minimum wage ( \$217.50 ) or the New York State minimum wage ( \$7.25 \* per hour, or \$217.50 ) or less

No payment or deduction allowed.

- |  |  |
|--|--|
| <p>(b) More than 30 times the greater of the federal minimum wage ( \$217.50 ) or the New York State minimum wage ( \$7.25 * per hour, or \$217.50 ) and less than 40 times the greater of the federal minimum wage (\$290.00) or the New York State minimum wage ( \$290.00 )</p> <p>(c) 40 times the greater of the federal minimum wage (\$290.00) or the New York State minimum wage ( \$290.00 ) or more.</p> | <p>The lesser of: the excess over the greater of 30 times the federal minimum wage ( \$217.50 ) or the New York State minimum wage ( \$217.50 ) in disposable earnings, or 10% of gross earnings.</p> <p>The lesser of: 25% of disposable earnings or 10% of gross earnings.</p> |
|--|--|

**III. Notice: You may be able to challenge this income execution through the procedures provided in CPLR 5231(i) AND CPLR 5240.**

If you think that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should act promptly because the money will be applied to the judgment. If you claim that the amount of your income being deducted under this income execution exceeds the amount permitted by state or federal law, you should contact your employer or other person paying your income. Further, YOU MAY CONSULT AN ATTORNEY, INCLUDING LEGAL AID IF YOU QUALIFY. New York State law provides two procedures through which an income execution can be challenged:

**CPLR SEC. 5231 (i) Modification.** At any time, the judgment debtor may make a motion to a court for an order modifying an income execution.

**CPLR SEC. 5240 Modification or protective order: supervision of enforcement.** At any time, the judgment debtor may make a motion to a court for an order denying, limiting, conditioning, regulating, extending or modifying the use of any post-judgment enforcement procedure, including the use of income executions.

**Return(for Sheriff's or Marshal's use only)**

☐ Fully Satisfied .....2011

☐ Unsatisfied

☐ Partially Satisfied .....2011

\$ \_\_\_\_\_

Because I was unable to find the Garnishee (the Employer) within my jurisdiction, I return this Income Execution to Judgment Creditor's Attorney on \_\_\_\_\_ 2011 .

Date and Time received

☐ Marshal, City of \_\_\_\_\_

☐ Sheriff, County of \_\_\_\_\_

☐ Constable of the ☐ Town ☐ Village of \_\_\_\_\_

## Exhibit G



HARRICE H. PRESSLER (1930-2002)  
SULLIVAN H. PRESSLER

GERARD J. FELT  
STEVEN P. MCCABE  
LAWRENCE J. HUBERHOTT, JR.

MITCHELL L. WILLIAMSON  
THOMAS H. BROGAN  
RALPH GILKO  
JOANNE L. D'AMICO  
CHRISTOPHER P. GREGGILL

*PRESSLER AND PRESSLER, L.L.P.*

COUNSELLORS AT LAW  
7 EREUN ROAD

Parasippany, NJ 07654-3020  
Off: (973) 753-5100  
Fax: (973) 753-5353

NY OFFICE

305 Broadway  
9th Floor

New York, NY 10007

Off: (516) 222-7929

Fax: (973) 753-5353

Reply to (X) NJ Office | NY Office

DALE L. GELBER  
CRAIG S. STILLER\*  
STEVEN A. LANG  
DANIEL B. ELLIVAN  
GINA M. LO BUE

CAROL J. RICHES  
DARREN H. TANAKA  
MITCHELL E. ZIPKIN  
MICHAEL J. PETERS  
RITA L. AYCHER

\* NY State License Only

OFFICE HOURS:  
Monday-Thursday: 9am-5pm  
Friday: 9am-7pm  
Saturday: 9am-2pm

07/27/11

JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

Re: PALISADES COLLECTION, L.L.C. vs. JACQUELINE ORTIZ  
CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX  
Index Number 59211/05  
P&P File Number 028107  
Balance: \$4,758.12  
Original Creditor AT&T WIRELESS

Dear Sir or Madam:

Enclosed please find a Stipulation of Discontinuing Action with Mutual Release in reference to the above matter. Kindly sign and return one copy with original signature to our office in the self addressed, stamped envelope provided for your convenience.

Should you have any questions, please feel free to contact me at 1-888-312-8600 Ext 5141 or anyone in my department at Ext 5656.

Thank you for your attention in this matter.

Very truly yours,

PRESSLER and PRESSLER, LLP

Craig S. Stiller

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.



# Exhibit H

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX; PART 11.

Palisades

Plaintiff,

-against-

Jacqueline  
Ortiz

Defendant.

DISCOVERY ORDER

Index No

CU059211-05

It is hereby ORDERED that the plaintiff / defendant shall serve the defendant /  
plaintiff with the following discovery material by Certified Mail Return Receipt Requested  
within 45 days or X 60 days:

- X A copy of the signed contract giving rise to the alleged debt.
- X All billing statements and transaction history for the subject account.
- X A complete chain of custody including written proof of assignment for the subject account.
- Notarized Bill of Particulars.
- X Response(s) to Notice for Discovery including interrogatories and Notices to Admit.

The matter is adjourned to Dec. 15, 2011 at 10:30 AM for conference.

Non-compliance with this Order shall preclude the offending party from presenting documentation or testimony at trial.

Dated: 9-13-11

Civil Court  
of the  
City of New York  
SEP 13 2011

ENTERED  
BRONX COUNTY

AMR  
Judge, Civil Court  
MITCHELL J. DANZIGER  
JUDGE, CIVIL COURT

# Exhibit I

MAURICE H. PRESSLER (1936-2002)  
SHELDON H. PRESSLER

GERARD J. FELT  
STEVEN P. MCCABE  
LAWRENCE J. McDERMOTT, JR.

MITCHELL L. WILLIAMSON  
CHRISTOPHER P. BOGGOLI  
THOMAS M. BROGAN  
JOANNE L. D'AMURIZIO  
RALPH GUIXO

**PRESSLER AND PRESSLER, LLP**  
COUNSELLORS AT LAW  
7 Enlin Rd.

Parsippany, NJ 07054-5020  
Off: (973) 753-5100  
Fax: (973) 753-5353

NY Office:

305 Broadway, 9<sup>th</sup> Floor  
New York, NY 10007  
Office: (516) 222-7929  
Fax: (973) 753-5353

E-MAIL: [Pressler@Pressler-Pressler.com](mailto:Pressler@Pressler-Pressler.com)

Please Reply To:

[X] New Jersey Office [ ] New York Office

DAVID GELBER  
CHANG S. STILLER\*  
STEVEN A. LANG  
DANIEL D. SULLIVAN  
GINA M. LOBUE  
GLEN H. CHULSKY

DARYL J. KIPNIS  
DAIREN H. TANAKA  
MITCHELL E. ZIPKIN  
MICHAEL J. PETERS  
RITA E. AYOUB

\* NY STATE LICENSE ONLY

OFFICE HOURS:

Monday-Thursday: 9am-5pm

Friday: 9am-7pm

Saturday: 9am-2pm

SEPTEMBER 21, 2011

Civil Court of the City of New York  
Clerk, BRONX County  
851 GRAND CONCOURSE  
BRONX NY 10451

Re: PALISADES COLLECTION, L.L.C. vs JACQUELINE ORTIZ  
Civil Court of the City of New York  
County Of BRONX Index No 59211/05  
P&P File Number O28107  
Original Creditor: AT&T Wireless  
Original Account: 002500000057733040  
Current Balance: \$4,758.12

Dear Clerk:

Enclosed please find a Notice of Motion, Affirmation in Support and Proposed Order, returnable on October 13, 2011. Please file the motion and place it on the court's calendar.

If you have any questions or concerns, please feel free to contact me directly at 1-888-312-8600 ext. 5301.

Very truly yours,

PRESSLER & PRESSLER, LLP

Mitchell E. Zipkin

MEZ/mz

Enc.

CC: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX NY 104513073

This is a communication from a debt collector. This is an attempt to collect a debt.  
Any information obtained will be used for that purpose.

INDEX NO.: 59211/05

Civil Court of the City of New York  
County Of BRONX

---

PALISADES COLLECTION, L.L.C.	)
Plaintiff,	)
	)
-against-	)
	)
JACQUELINE ORTIZ	)
Defendant(s)	)
	)
	)

---

NOTICE OF MOTION TO  
DISCONTINUE ACTION

PRESSLER & PRESSLER, L.L.P.  
Attorney for Plaintiff  
305 Broadway, 9<sup>th</sup> Floor  
New York, NY 10007  
(516) 222-7929

P&amp;P File Number 028107

Civil Court of the City of New York  
County Of BRONX

PALISADES COLLECTION, L.L.C.	)	<u>NOTICE OF MOTION</u>
Plaintiff,	)	
-against-	)	INDEX NO.: 59211/05
JACQUELINE ORTIZ	)	
Defendant(s)	)	
	)	

PLEASE TAKE NOTICE, that upon the annexed affirmation of Mitchell E. Zipkin, Esq. dated September 21, 2011, and upon all pleadings and proceedings previously had in this action, a motion will be made before Part 34C, Room 1102 of this Court at the Courthouse located at 141 Livingston Street, New York, New York on October 13, 2011 at 9:30 a.m. or as soon thereafter as counsel can be heard, for an Order directing that this matter be discontinued pursuant to CPLR § 3217, together with such other further relief as the Court deems just and proper.

This action is for breach of contract.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR § 2214 (b), answering affidavits, if any, shall be served at least seven days before the return date of this motion.

Dated: September 21, 2011

PRESSLER & PRESSLER, L.L.P.  
Attorney for Plaintiff  
305 Broadway, 9<sup>th</sup> floor  
New York, NY 10007

By:   
\_\_\_\_\_  
Mitchell E. Zipkin, Esq.

TO: JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 10451-3073



Civil Court of the City of New York  
County Of BRONX

PALISADES COLLECTION, L.L.C.	)	<u>AFFIRMATION IN SUPPORT OF</u>
Plaintiff,	)	
-against-	)	
JACQUELINE ORTIZ	)	INDEX NO.: 59211/05
Defendant(s)	)	
	)	

*Mitchell E. Zipkin, Esq.*, an attorney admitted to practice in the State of New York, affirms under the penalty of perjury that:

1. I am associated with the attorney of record for the Plaintiff in the above entitled action, and the above entitled action was brought for breach of contract.
2. Plaintiff commenced suit against Defendant with substituted service of the Summons and Complaint pursuant to CPLR 308(2) on November 8, 2005, and on November 9, 2005 by mail. See Affidavit of Service attached hereto as Exhibit A, and Summons and Complaint attached hereto as Exhibit B. A default judgment was entered against the Defendant on August 10, 2006, which is attached hereto as Exhibit C. Defendant then filed an Order to Show Cause to vacate the default judgment, which was granted on June 21, 2011. See Order dated June 21, 2011 attached hereto as Exhibit D. The aforementioned Order deemed that the proposed answer that Defendant annexed to her Order to Show Cause was accepted by the Court. See Answer dated June 9, 2011 which is attached hereto as Exhibit E.
3. Plaintiff wishes to discontinue the action against Defendant.
4. On July 27, 2011, Plaintiff sent Defendant a Stipulation of Discontinuing Action with Mutual Release. The Stipulation is attached with the cover letter as Exhibit F.
5. When no response was received to the Stipulation of Discontinuing Action with Mutual

Release, on August 30, 2011, undersigned's office sent Defendant a follow up notice with additional copies of the Stipulation. The follow up notice is attached hereto as Exhibit G. No response was received to the follow up notice either.

6. Additionally, Defendant was presented with a copy of the Stipulation for signature while she was in court for a case conference on September 13, 2011, but for reasons unbeknownst to Plaintiff, the Defendant refused to sign the Stipulation.

7. Pursuant to CPLR § 3217, since a responsive pleading has been filed, Plaintiff requests that the Court discontinue this action by motion on notice to Defendant. No judgment is currently entered against Defendant. Plaintiff respectfully requests the discontinuance of this case.

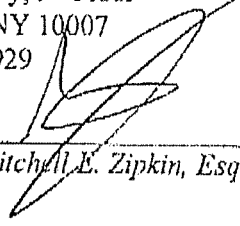
8. No prior application for the relief requested herein has been made.

WHEREFORE, Plaintiff respectfully asks for an Order discontinuing this matter pursuant to CPLR § 3127.

Dated: September 21, 2011

PRESSLER & PRESSLER, LLP  
Attorney for Plaintiff  
305 Broadway, 9<sup>th</sup> Floor  
New York, NY 10007  
(516) 222-7929

By: \_\_\_\_\_

  
Mitchell E. Zipkin, Esq.

# HON. Judge, Civil Court

Civil Court of the City of New York  
County Of BRONX

PALISADES COLLECTION, L.L.C.	)	<u>AFFIRMATION OF SERVICE</u>
Plaintiff,	)	
	)	<u>BY MAIL</u>
-against-	)	INDEX NO.: 59211/05
JACQUELINE ORTIZ	)	
Defendant(s)	)	
	)	
	)	

I, Mitchell E. Zipkin, Esq., an attorney admitted to practice in the Courts of the State of New York, associated with the firm of Pressler & Pressler, LLP Attorneys for Plaintiff, affirm that I am not a party to the action, and on SEPTEMBER 21, 2011, the attached Notice of Motion, Affirmation in Support, and proposed Order were served by depositing a copy thereof enclosed in a first class postage paid wrapper, addressed to the address designated by the Defendant for that purpose in an official depository under the exclusive care and custody of the United States Postal Service, that address being:

JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 10451-3073

Affirmed: September 21, 2011

By: \_\_\_\_\_

*Mitchell E. Zipkin, Esq.*

# EXHIBIT A

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

PALISADES COLLECTION, LLC

Plaintiff(s), Petitioner(s)

against

JACQUELINE ORTIZ

Defendant(s), Respondent(s)

ATTORNEY: Pressler and Pressler

Pressler File No.: 028107

INDEX NO.: 59211/05

AFFIDAVIT OF SERVICE

STATE OF N.Y.: COUNTY OF NASSAU: ss:

I, Jose Rojas, being duly sworn according to law upon my oath, depose and say, that deponent is not a party to this action, is over 18 years of age and resides in Bronx, NY.

That on November 8, 2005 at 2:18 PM at 790 Grand Concourse, Apt 2B, Bronx, NY 10451, deponent served the Summons & Verified Complaint with Index Number & Date of Filing Endorsed Thereon upon Jacqueline Ortiz, (Defendant/Respondent) herein known as Recipient.

Said service was effected in the following manner;

By delivering thereat a true copy of each to Alvilin Negron, a person of suitable age and discretion. That person was also asked by deponent whether said premises was the Recipient's place of residence and their reply was affirmative.

Deponent describes the individual served to the best of deponent's ability at the time and circumstances of service as follows: Sex: Female Skin: Hispanic Hair: Black Age(Approx): 45 Height(Approx): 5' 6" Weight(Approx): 130-140 lbs Other:

On November 9, 2005, after delivery of process was effected, deponent enclosed an additional true and attested copy of same in postpaid envelope addressed to the Recipient at Recipient's place of residence in an official depository under the exclusive care of the United States Postal Service within New York State. The envelope bore the Legend "Personal & Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the Recipient.

I asked the person spoken to if the Recipient was in active military service of the United States or the State of New York in any capacity and received a negative reply. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the Recipient is not in the military service of New York State or the United States as that term is defined in the statutes of New York State or the Federal Soldiers and Sailors Civil Relief Act.

I certify that the foregoing statements made by me are true, correct and my free act and deed. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Jose Rojas License No. 1017431

Sworn to before me on November 9, 2005

Alan Leibowitz  
Notary Public, State of New York  
Registration No. 01LE6029931  
Qualified in Nassau County  
Commission Expires August 30, 2009

Executive Attorney Service (516) 333-3447  
Case No.: 43975

NOV 21 PM 2:17

# EXHIBIT B

File # 028107

CONSUMER CREDIT TRANSACTION

IMPORTANT!! YOU ARE BEING SUED!! THIS IS A COURT PAPER - A SUMMONS.

Don't throw it away!! Talk to a Lawyer right away. Part of your pay can be taken from you (Garnished) if you do not bring this to court, or see a Lawyer. Your property can be taken and your credit rating can be hurt!! You may have to pay other costs too!! If you can't pay for your own Lawyer, bring these papers to this court right away. The clerk (personal appearance) will help you.

CIVIL COURT OF THE CITY OF NEW YORK - COUNTY OF BRONX

PALISADES COLLECTION, L.L.C.  
Plaintiff,  
-Against-

Index No.59211/05

SUMMONS

JACQUELINE ORTIZ

Plaintiff's Residence Address  
210 SYLVAN AVE  
ENGLEWOOD CLIFFS NJ 07632

Defendant(s).

The Basis of this venue is:  
Defendant's residence

Defendant's Residence Address:  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

To the above named defendant(s): YOU ARE HEREBY SUMMONED to appear in the Civil Court of the City of New York, County of BRONX, at the office of the clerk of the said Court at 851 GRAND CONCOURSE in the County of BRONX, City and State of New York, within the time provided by law as noted below and to file your answer to the annexed complaint with the clerk; upon your failure to answer, judgment will be taken against you for the sum of \$3,165.92 with interest on the sum of \$3,165.92 from 10/24/05 and the costs of this action.

Dated: 10/24/05

PRESSLER and PRESSLER  
Attorneys for Plaintiff  
By: S/Ralph Gulko  
Ralph Gulko, Esq.

990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516)222-7929

Note the law provides that:

a) If this summons served by its delivery to you personally with the City of New York, you must appear and answer within TWENTY DAYS after such service: or  
b) If this summons is served by its delivery to any person other than you personally or is served outside the City of New York, or by publication, or by any other means other than personal delivery to you within the City of New York, you are allowed THIRTY DAYS after the proof of service is filed with the Clerk of this Court within which to appear and answer.



File # 028107

TRANSACCION de CREDITO del CONSUMIDOR  
IMPORTANTE! UD. HA SIDO DEMANDADO!

ESTE ES UN DOCUMENTO LEGAL; UNA CITACION

!NO LA BOTE! CONSULTE CON SU ABOGADO ENSEGUIDA! LE PUEDEN QUITAR PARTE DE SU SALARIO (EMBARGARLO). !SI UD. NO SE PRESENTA EN LA CORTE CON ESTA CITACION LE PUEDEN CONFISCAR SUS BIENES, (PROPIEDAD) Y PERJUDICAR SU CREDITO! !TAMBIEN ES POSIBLE QUE TENGA QUE PAGAR OTROS GASTOS LEGALES (COSTAS)! SI UD, NO TIENE DINERO PARA UN ABOGADO TRAIGA ESTOS PAPELES A LA CORTE INMEDIATAMENTE. VENGA EN PERSONA Y EL SECRETARIO DE LA CORTE LE AYUDARA.

CORTE CIVIL, DE LA CIUDAD DE NEUVA YORK CONDADO DE BRONX

PALISADES COLLECTION, L.L.C.

No. del indice (tabla) .59211/05

Demandante,

-against-

CITACION

JACQUELINE ORTIZ

Demandado(s)

La razon de haber designado esta Corte es:

210 SYLVAN AVE

ENGLEWOOD CLIFFS NJ 07632

La transaccion de su creito tuvo lugar en el Condado de Residencia del Demandado

Residencia del Demandado

790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

Al demandado(s) arriba mencionado(s): USTED ESTA CITADO para presentarse en la Corte Civil de la Ciudad de Nueva York, Condado de BRONX a la oficina del jefe Principal de dicha Corte en 851 GRAND CONCOURSE en Condado de BRONX Ciudad y Estado de Nueva York, dentro del tiempo provisto por la ley segun abajo indicado y presentar su respuesta a la demanda adjunta al Jefe de la Corte; si usted no comparece a contestar se dictara sentencia contra usted por la cantidad de \$3,165.92 con intereses sobre \$3,165.92 de 10/24/05 incluyendo los costos de esta causa.

Dated: 10/24/05

PRESSLER and PRESSLER

Abogado(s) del Demandante

By: S/Ralph Gulko

Ralph Gulko, Esq.

990 Stewart Avenue Suite 30

Garden City, NY 11530

(516)222-7929

NOTA: La ley provee que:

a) Si esta citacion es entregada a usted personalmente en la Ciudad de Nueva York, usted debe presentarse y responder dentro de VEINTE dias despues de la entrega; o

b) Si esta citacion es entregada a otra persona que no fuera usted personalmente, o si fuera entregada afuera de la ciudad de Nueva York, o por medio de publicacion, o por otros medios, que no fueran entrega personal a usted en la Ciudad de Nueva York, usted, tiene TREINTA dias para presentarse y responder a la demanda, despues de haberse presentado prueba de entrega de la citacion sera archivada con el Jefe de esta Corte.

File # 028107

CIVIL COURT OF THE CITY OF NEW YORK - COUNTY OF BRONX  
PALISADES COLLECTION, L.L.C. Index No. 59211/05  
Plaintiff(s)  
-Against- VERIFIED COMPLAINT  
JACQUELINE ORTIZ  
Defendant(s)

Plaintiff by its attorney, PRESSLER AND PRESSLER complaining of the defendant(s) respectfully alleges upon information and belief as follows:

FIRST CAUSE OF ACTION

1. Plaintiff is a corporation incorporated under the laws of the State of New Jersey and owner of AT&T WIRELESS, Acct # 002500000057733040.
2. Upon information and belief defendant resides or is employed in the county in which this action is brought; or that the defendant transacted business within the county in which this action is brought in person or through an agent and that the instant cause of action arose out of said transaction.
3. Upon information and belief that the defendant entered into a Goods and/or Services Contract # 002500000057733040 with the plaintiff wherein defendant agreed to pay plaintiff all amounts charged to said account by the authorized use thereof.
4. Upon information and belief the agreement containing the terms and conditions governing the use of the charge account, including terms of payment was mailed to defendant.
5. Upon information and belief thereafter defendant incurred charges by use of the said Account in the sum of \$2,187.09.
6. There is now due and owing to the plaintiff from the defendant the agreed sum of \$2,187.09 plus interest of \$978.83 from 11/04/00 to 10/24/05 for a total sum of \$3,165.92.

SECOND CAUSE OF ACTION

7. Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs 1-6 as if set forth at length.
8. Plaintiff and/or AT&T WIRELESS has mailed monthly statements required by the agreement to defendant(s) thereby rendering a full just and true account of all unpaid amounts charged by the defendant(s) which are due and owing, and defendant(s) received, accepted and retained same without objection.
9. By reason of the aforementioned, an ACCOUNT STATED was taken and had between the plaintiff and defendant(s) for the agreed total balance of \$3,165.92.

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

WHEREFORE, plaintiff demands judgment against defendant on the first cause of action in the sum of \$3,165.92 and on the second cause of action in the sum of \$3,165.92 together with accruing interest to the date of judgment plus costs and disbursements of this action and for such further and other relief as the Court deems just and proper.

PRESSLER AND PRESSLER  
990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516) 222-7929

PRESSLER and PRESSLER  
Attorneys for Plaintiff

By: S/Ralph Gulko  
Ralph Gulko , Esq.

VERIFICATION

File # 028107

State of New York  
County of NASSAU ss:

The undersigned, an Attorney duly admitted to practice law in the State of New York, affirms the following statements to be true under the penalties of perjury:

I am the attorney of record for plaintiff; That I have read and know the contents of the foregoing complaint; That same is true to the knowledge of the affirmant except as to those matters therein stated to be alleged upon information and belief and as to those matters I believe to be true.

The reason this verification is made by affirmant and not plaintiff is because plaintiff is a corporation and does not have an officer readily available within the county wherein I maintain an office for the practice of law and the undersigned is in possession of the salient papers in connection with the action herein.

Dated: 10/24/05

PRESSLER and PRESSLER  
Attorney for Plaintiff  
By: S/Ralph Gulko  
Ralph Gulko, Esq.

990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516)222-7929

# EXHIBIT C

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

P&amp;P File 028107

PALISADES COLLECTION, L.L.C.  
Plaintiff  
vs.

Index No. 59211/05

JACQUELINE ORTIZ  
Defendant(s)

## JUDGMENT

AMOUNT CLAIMED IN COMPLAINT LESS CREDITS ON ACCOUNT (\$0.00 )	\$3,165.92
INTEREST AT 9.00 % FROM 10/24/05 to 04/03/06	\$82.51
	-----

Costs by Statute	\$20.00	\$3,248.43
Service of Summons and complaint	\$25.00	
Fee for Index Number	\$45.00	
Prospective Execution Fee	\$0.00	

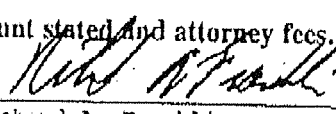
Costs Taxed At		-----
		\$90.00
Total		\$3,338.43

STATE OF NEW YORK, COUNTY OF NASSAU

The undersigned, an attorney at law of the State of New York, the attorney(s) of record for the Plaintiff(s) herein, subscribes and affirms under penalties of perjury, that the disbursements above specified are correct and true and have been or will be necessarily be made or incurred herein and are reasonable in amount; that the Defendant(s) have failed to appear, answer or move herein and the time to do so has expired so that Plaintiff is entitled to a judgment by default. On 11/29/2005, Deponent mailed a copy of the summons in separate post-paid envelopes in an official depository of the U.S. Postal Service, addressed to each defaulting defendant's last known residence address as set forth below, by first class mail in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof that the communication was from an attorney or concerns an alleged debt. More than 20 days have elapsed and the same have not been returned as undeliverable by the U.S. Postal Service.

Pursuant to affidavits of service on file herein, deponent alleged that defendant(s) are not in the military service.  
Plaintiff waives its cause of action based on an account stated and attorney fees.

Dated: 07/14/06

  
Richard A. Franklin Esq.  
Pressler & Pressler  
990 Stewart Avenue Suite 30  
Garden City, NY 11530  
(516) 222-7929

JUDGEMENT ENTERED ON:

ADJUDGED that PALISADES COLLECTION, L.L.C., Plaintiff, with offices at 210 SYLVAN AVE ENGLEWOOD CLIFFS NJ 07632, recover of JACQUELINE ORTIZ, Defendant residing at 790 GRAND CONCOURSE APT 2B BRONX, NY 104513073 in the sum of \$3,165.92 with Interest of \$82.51 making a total of \$3,248.43, together with costs and disbursements of \$90.00 amounting in all to the sum of \$3,338.43 and that the Plaintiff(s) have execution therefor.

Clerk

# EXHIBIT D

**EXHIBIT E**



028107

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

Index No. 59211/05

---

PALISADES COLLECTION, LLC,

Plaintiff,

PROPOSED ANSWER  
CONSUMER CREDIT  
TRANSACTION

v.

JACQUELINE ORTIZ,

Defendant.

---

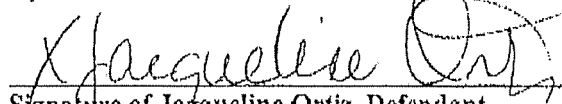
JACQUELINE ORTIZ, answers the Complaint as follows:

1. General Denial: I deny the allegations of the Complaint.
2. I do not owe the money.
3. I have no business relationship with the plaintiff so the plaintiff lacks standing.

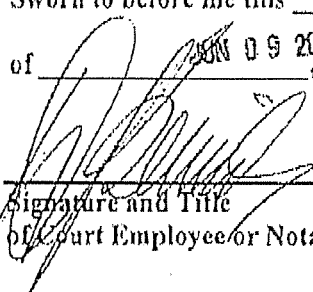
VERIFICATION

State of New York, County of Bronx ss.:

JACQUELINE ORTIZ, being duly sworn, deposes and says: I am the Defendant in this action, I have read the Proposed Answer Consumer Credit Transaction and know the contents to be true to my own knowledge, except for those matters alleged to be on information and belief, and as to those matters, I believe them to be true.

  
Signature of Jacqueline Ortiz, Defendant

Sworn to before me this \_\_\_\_\_ day  
of NOV 09 2011, 20\_\_\_\_.

  
Signature and Title  
of Court Employee or Notary

COURT  
REV. ASSIST.

## Exhibit J

MAURICK H. PRESSLER (1930-2002)  
HERALD H. PRESSLER

BERNARD J. PRIT  
STEVEN P. MCCABE  
LAWRENCE J. MCDOUGALL, JR.

MITCHELL L. WEINSTEIN  
THOMAS M. BROGAN  
RALPH GILBO  
JOSEPH L. D'AMICO  
CHRISTOPHER P. CROCHET

**PRESSLER AND PRESSLER, L.L.P.**

COUNSELLORS AT LAW  
7 Kintin Road  
Parsippany, NJ 07054-5020  
Off: (973) 753-5100  
Fax: (973) 753-5353

NY Office  
305 Broadway  
5th Floor  
New York, NY 10007  
Off: (212) 222-7929  
Fax: (212) 753-5353  
Reply to (x) NJ Office | (y) NY Office

DALE L. GEMMEL  
CRAIG S. STILLER  
STEVEN A. LONG  
DAVID B. SULLIVAN  
SARA H. LO BUE  
GLENN H. CHURCH

DARYL J. KIPNIS  
DAVID H. YAMAKA  
MITCHELL B. RIFKIN  
MICHAEL J. PETERSON  
WITA H. AVON

\* NY State License Only

OFFICE HOURS:  
Monday-Thursday: 9am-5pm  
Friday: 9am-5pm  
Saturday: 9am-2pm

11/01/11



JACQUELINE ORTIZ  
790 GRAND CONCOURSE APT 2B  
BRONX, NY 104513073

Re: PALISADES COLLECTION, L.L.C. vs JACQUELINE ORTIZ  
CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX  
Index 59211/05  
P&P File No 028107  
Acct # 002500000057733040  
Original Creditor AT&T WIRELESS

Dear JACQUELINE ORTIZ

Enclosed please find the Notice Of Discontinuing Action  
filed with the CIVIL COURT OF THE CITY OF NEW YORK, COUNTY OF  
BRONX. Please keep a copy for your records.

Should you have any questions, please feel free to  
contact me at 1-888-312-8600 Ext 5141 or anyone in my  
department at Ext 5112.

Very truly yours,

PRESSLER and PRESSLER, LLP

S/ Craig S. Stiller

Craig S. Stiller

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO  
COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT  
PURPOSE.

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF BRONX

11 OCT 25 AM 10:17  
P&P File 028107  
RECEIVED CIVIL COURT

PALISADES COLLECTION, L.L.C.  
Plaintiff  
vs.

Index No. 59211/05

NOTICE OF DISCONTINUING  
ACTION

JACQUELINE ORTIZ

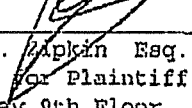
Defendant (s)

|||||

PLEASE TAKE NOTICE that plaintiff hereby voluntarily discontinues  
this action pursuant to CPLR 3217(a)

Dated 10/21/11

Pressler and Pressler, LLP  
Attorneys for Plaintiff

By:   
\_\_\_\_\_  
Mitchell E. Zipkin Esq.  
Attorney's for Plaintiff  
305 Broadway 9th Floor  
New York, NY 10007  
(516) 222-7929

## Exhibit K

WebCivil Local - Appearance Detail

*WebCivil Local - Appearance Detail*

Court: **Bronx County Civil Court**  
 Index Number: **CV-059211-05/BX**  
 Case Name: **PALISADES COLLECTION, L.L.C. vs. ORTIZ, JACQUELINE**  
 Case Type: **Civil**

**Appearance Information:**

Appearance Date	Time	Purpose	Appearance Outcome	Judge / Part	Motion Seq
01/09/2012	09:45 AM	Motion	Granted on Consent	Honorable Lizbeth Gonzalez Part 34C - Procedural Motions - Self-Represented Litigant - Consumer	<u>003</u>
12/15/2011	10:30 AM	Conference: Pretrial	Inquest Clerk	Honorable Mitchell J. Danziger Part 11C - Non-Jury - Self-Represented - Consumer Debt	
10/13/2011	09:45 AM	Motion	Denied	Honorable Lizbeth Gonzalez Part 34C - Procedural Motions - Self-Represented Litigant - Consumer	<u>002</u>
09/13/2011	10:30 AM	Conference: Pretrial	Adjourned	Honorable Mitchell J. Danziger Part 11C - Non-Jury - Self-Represented - Consumer Debt	
06/21/2011	09:45 AM	Motion	Granted on Consent	Honorable Fernando Tapia Part 34C - Procedural Motions - Self-Represented Litigant - Consumer	<u>001</u>

Exhibit L



CIVIL COURT OF THE CITY OF NEW YORK  
BRONX COUNTY: PART **34C** X

**Palisades Collection LLC**  
Plaintiff,

DECISION and ORDER

Index No. **59211-05**  
**#3**

-against-

**Jaqueline Ortiz**  
Defendant. X

Present: Hon. Lizbeth González  
JCC

Recitation, as required by CPLR 2219(a), of the papers considered in the review of this motion:

Notice of Motion and annexed Exhibits and Affidavits.....  
Order to Show Cause and annexed Affidavits.....  
Affirmation in Opposition and annexed Exhibits.....  
Reply Affidavits.....  
Other.....

*Upon the foregoing papers, the Decision and Order on this Motion is as follows:*

Defendant's motion to vacate and excuse his / her default and to vacate the inquest clerk marking is granted on consent / ~~on default~~. ~~This matter is now scheduled for conference / trial on~~

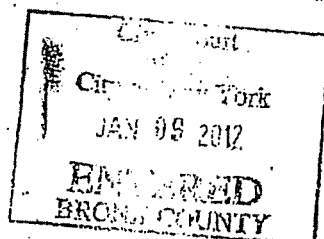
~~20~~ at ~~9:30AM / 10:30AM~~ in court room ~~504~~.

~~The Clerk is directed to restore this action to the appropriate calendar. Defendant shall submit a copy of this order to the Clerk at Window 14 in the basement.~~ **This action is**

**discontinued with prejudice**

Dated: **Jan. 9, 2012**

So ordered,



**19**  
Hon. Lizbeth González, JCC

# EXHIBIT I

*He not available*

*3*

*2nd OTSC*

Civil Court of the City of New York  
County of Bronx Part 39

Index Number: CV-059211-05/BX



**ORDER TO SHOW CAUSE TO  
Vacate Inquest Clerk, stay  
entry of judgment and  
Restore to the Trial Calendar  
Appearances are mandatory**

PALISADES COLLECTION, L.L.C.,  
-against-  
JACQUELINE ORTIZ

Upon the annexed affidavit of JACQUELINE ORTIZ, sworn to on December 19, 2011, and upon all papers and proceedings herein:

Let the Plaintiff(s) or Plaintiff(s) attorney(s) show cause at:

**Bronx Civil Court  
851 Grand Concourse, Bronx, NY 10451  
Part 34C - Room 504  
on January 9, 2012 at 9:30 AM**

or as soon thereafter as counsel may be heard, why an order should not be made:

**To Vacate Inquest Clerk, stay entry of judgment restore to the Trial Calendar and/or dismiss**

**PENDING** the hearing of this Order to Show Cause and the entry of an Order thereon, let all proceedings on the part of the Plaintiff(s), Plaintiff(s) attorney(s) and agent(s) and any Marshal or Sheriff of the City of New York on this action be stayed.

**SERVICE** of a copy of this Order to Show Cause, and annexed Affidavit, upon the:

Plaintiff(s) or named attorney(s)  
(Judge to Initial)  
\_\_\_\_\_ by Personal Service by "In Hand Delivery"  
X \_\_\_\_\_ by Certified Mail,  
Return Receipt Requested  
\_\_\_\_\_ by First Class Mail with official Post Office  
Certificate of Mailing

Sheriff or Marshal  
(Judge to Initial)  
\_\_\_\_\_ by Personal Service by "In Hand Delivery"  
\_\_\_\_\_ by Certified Mail, Return Receipt Requested  
\_\_\_\_\_ by First Class Mail with official Post Office  
Certificate of Mailing

on or before December 27, 2011, shall be deemed good and sufficient.

PROOF OF SUCH SERVICE may be filed with the Clerk in the Part indicated above on the return date of this Order to Show Cause.

Mail to Attorney:

PRESSLER & PRESSLER  
305 BROADWAY, 9TH FLOOR  
NEW YORK, NY 10007-

Sheriff/Marshal

*mgx  
Ax duc'd  
w/pw/urice  
12/19/12*

December 19, 2011

DATE

**HON. LIZBETH GONZALEZ  
JUDGE, CIVIL COURT**

*[Signature]*  
Hon. Raul Cruz, Civil Court Judge (NYC)

the City of New York  
Bronx

Index Number: CV-059211-05/BX



ISADES COLLECTION, L.L.C.  
-against-  
JACQUELINE ORTIZ

**AFFIDAVIT IN SUPPORT TO  
Vacate Inquest Clerk, stay  
entry of the judgment and  
restore to the Trial Calendar**

State of New York, Bronx

JACQUELINE ORTIZ, being duly sworn, deposes and says:

(Initials)

1. X a) I am the party named as (Defendant) (Respondent) in the above titled proceeding.

JO

2. X I request that the Court issue an order for: Vacate Inquest Clerk, stay the entry of judgment and restore to the Trial Calendar

JO

3. X I have a good defense because: I do not owe the money.  
JO On the court date that I missed (12/15/11) the plaintiff was to show a "discovery". In addition I have not done any business with the plaintiff.

4. X I have a good excuse/reason because: The Plaintiff sent me a  
12/15/11 notice of discontinuing Action, and said they  
JO filed it in court. Also I called and they said  
the case was dismissed.

5. (a) I have not had a previous Order to Show Cause regarding this Index Number  
X (b) I have had a previous Order to Show Cause regarding this index number but I am making this  
further application because I want to make sure this case is  
JO dismissed

Sworn to before me this day  
December 19, 2011

COURT  
REV. ASSIST.

Signature of Court Employee and Title

(Sign Name) Jacqueline Ortiz  
JACQUELINE ORTIZ, residing at 790 GRAND  
CONCOURSE, APT 2B, Bronx, NY 10451-